

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 KEITH RAWLINS,

9 Plaintiff,

10 v.

11 HENRY TAMBE,

12 Defendant.

Case No. C19-0093-JCC-MAT

ORDER RE: MOTION FOR SUBPOENA
AND DISCOVERY REQUEST

13
14 Plaintiff, a Skagit County inmate, proceeds pro se and *in forma pauperis* (IFP) in this civil
15 rights action. Plaintiff filed a Motion for Issuance of Subpoena and Objection to Order Denying
16 Appointment of Counsel (Dkt. 8), as well as a First Request for Production of Documents (Dkt.
17 9). Having considered these submissions, the Court finds and concludes as follows:

18 (1) Plaintiff's motion for issuance of a subpoena (Dkt. 8) is DENIED. The request for
19 a subpoena is premature and appears unnecessary. The Court will issue an Order regarding pretrial
20 preparations setting relevant pretrial scheduling dates, including a deadline for the completion of
21 discovery, following the receipt of an answer to plaintiff's complaint from defendant. Plaintiff
22 will, as a general matter, be able to obtain "discovery regarding any nonprivileged matter that is
23 relevant to any party's claim or defense and proportional to the needs of the case, considering the

1 importance of the issues at stake in the action, the amount in controversy, the parties' relative
2 access to relevant information, the parties' resources, the importance of the discovery in resolving
3 the issues, and whether the burden or expense of the proposed discovery outweighs its likely
4 benefit." Fed. R. Civ. P. 26(b)(1).

5 Should a subpoena on a third party prove necessary, plaintiff would be required to comply
6 with all applicable rules and requirements. *See, e.g.*, Fed. R. Civ. P. 45(a)(1)-(4) (the party
7 commanding production must request a subpoena from the clerk, complete it before service, and
8 give all parties notice prior to service). Also, while a party proceeding IFP may be entitled to
9 obtain service of a subpoena pursuant to 28 U.S.C. § 1915(d), that party still remains responsible,
10 despite his or her IFP status, to pay all fees and costs associated with the subpoena. *Tedder v.*
11 *Odel*, 890 F.2d 210, 211-12 (9th Cir. 1989). *See also United States v. Columbia Broadcasting*
12 *System, Inc.*, 666 F.2d 364, 368-69 (9th Cir. 1982) (court may award costs of compliance with
13 subpoena to non-party).

14 (2) Plaintiff also filed a discovery request. (Dkt. 9.) However, in general, discovery
15 should be conducted between the parties. A party should not seek judicial intervention unless the
16 parties reach a disagreement they cannot resolve on their own. The Court will not hear a motion
17 to compel discovery until the moving party has met and conferred with opposing counsel or made
18 a good faith effort to do so. Fed. R. Civ. P. 37(a)(1); Local Civil Rule (LCR) 37(a)(1). "The
19 motion must include a certification that the movant has in good faith conferred or attempted to
20 confer with the person or party failing to make disclosure or discovery in an effort to obtain it
21 without court action." Fed. R. Civ. P. 37(a)(1). "The certification must list the date, manner, and
22 participants to the conference." LCR 37(a)(1). A good faith effort to confer requires a face-to-
23 face meeting or telephone conference. *Id.*

1
2 (3) Plaintiff, finally, indicated his desire to “enter an objection” to the ruling denying
3 his motion for appointment of counsel so that he was not “deemed to have waived the issue.” (Dkt.
4 8 at 2.) It is not clear whether plaintiff intended to simply note his disagreement with the Court’s
5 ruling, or to submit an objection pursuant to Rule 72 or a motion for reconsideration pursuant to
6 LCR 7(h). Because plaintiff waited more than fourteen days after the Court’s Order Denying the
7 Motion for Appointment of Counsel (Dkt. 7), neither a Rule 72 objection submitted to the presiding
8 district court judge, nor a motion for reconsideration would be timely. *See* Fed. R. Civ. P. 72 (a)
9 and LCR 7(h)(2).

10 Moreover, even if plaintiff had timely sought reconsideration, such a motion would be
11 properly denied. Motions for reconsideration are disfavored and will be granted only upon a
12 “showing of manifest error in the prior ruling” or “new facts or legal authority which could not
13 have been brought to [the court’s] attention earlier with reasonable diligence.” LCR 7(h)(1).
14 Plaintiff fails to show manifest error or new facts or legal authority and would not, therefore, be
15 entitled to relief.

16 (4) The Clerk is directed to send a copy of this Order to the parties and to the Honorable
17 John C. Coughenour.

18 Dated this 21st day of March, 2019.

19
20 
21 Mary Alice Theiler
22 United States Magistrate Judge
23